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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,979	10/21/2003	Stephan Braun	200208699-2	8110

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EXAMINER

MILLER, BRANDON J

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/688,979	<b>Applicant(s)</b> BRAUN ET AL.	
	<b>Examiner</b> Brandon J. Miller	<b>Art Unit</b> 2683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 15 is rejected under 35 U.S.C. 102(e) as being anticipated by Minear.

Regarding claim 15 Minear teaches a telecommunications platform having a plurality of communications links of which only a portion of the links are enabled for use through the activation of a first license key (see paragraph [0009]). Minear teaches a licensing framework for activating an upgrade license to temporarily enable additional ones of the plurality of links (see paragraph [0037]).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minear in view of Fosdick.

Regarding claim 1 Minear teaches a telecommunications platform having a plurality of communications links of which only a portion of the links are enabled for use through the activation of a first license key (see paragraph [0009]). Minear teaches a licensing framework for activating an upgrade license key to enable additional ones of the plurality of links (see paragraphs [0037]). Minear does not specifically teach a traffic monitoring element for measuring the traffic level of the platform and for generating data related to the measured traffic level for determining whether the number of links used is greater than that provided for by the base license key. Fosdick teaches a traffic monitoring element for measuring the traffic level and for generating data related to the measured traffic level for determining whether the number of links used is greater than that provided for by the license key (see col. 5, lines 16-18 & 25-48). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device in Minear adapt to include a traffic monitoring element for measuring the traffic level of the platform and for generating data related to the measured traffic level for determining whether the number of links used is greater than that provided for by the base license key because the application manager can make a determination as to whether there is a license present for a plurality of devices and it would allow for reduced network communications traffic and improved system performance.

Regarding claim 2 Minear and Fosdick teach a device as recited in claim 1 except for a traffic monitoring element that is enabled for use by the licensing framework upon the activation of an upgrade license key. Minear does teach activating an upgrade license key (see paragraph [0037]). Fosdick teaches a traffic-monitoring element that is enabled for use by licensing framework (see col. 5, lines 16-18 & 25-48). It would have been obvious to one of ordinary skill

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in the art at the time the invention was made to make the device adapt to include a traffic monitoring element that is enabled for use by the licensing framework upon the activation of an upgrade license key because this would allow for reduced network communications traffic and improved system performance.

Regarding claim 3 Minear teaches a time-limited validity period, and further comprising a license enforcement element for deactivating the plurality of links enabled by the activation of the upgrade license key upon the expiry of the validity period (see paragraphs [0031] & [0032]).

Regarding claim 4 Minear and Fosdick teach a device as recited in claim 3 except for a license enforcement element that is arranged to progressively deactivate the plurality of links over a predefinable time period. Minear does teach a license enforcement element that is arranged to deactivate a plurality of application links (see paragraph [0031] & [0032]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include a license enforcement element that is arranged to progressively deactivate the plurality of links over a predefinable time period because this would allow for reduced network communications traffic and improved system performance.

Regarding claim 5 Minear teaches a license enforcement element that is arranged to deactivate all of the plurality of links immediately upon expiry of the upgrade license key (see paragraph [0031] & [0032]).

Regarding claim 6 Minear and Fosdick teach a device as recited in claim 3 except for wherein the license enforcement element is adapted to deactivate use of the traffic monitoring element upon expiry of the upgrade license key. Minear does teach wherein the license enforcement element is adapted to deactivate a link to an application upon expiry of the upgrade

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license key (see paragraph [0032]). Fosdick teaches the use of a traffic-monitoring element (see col. 5, lines 16-18 & 32-36). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include a license enforcement element that is adapted to deactivate use of the traffic monitoring element upon expiry of the upgrade license key because this would allow for reduced network communications traffic and improved system performance.

Regarding claim 7 Minear teaches a telecommunications platform connected in a high-availability arrangement through a high-availability framework (see paragraph [0009] & [0011]).

Regarding claim 8 Minear teaches a method of operating a telecommunications platform having a plurality of communications links of which only a portion of the links are enabled for use through the activation of a first license key (see paragraph [0009]). Minear teaches activating an upgrade license key to enable additional ones of the plurality of links (see paragraph [0037]). Minear does not specifically teach measuring the traffic level of the platform; and generating data related to the measured traffic level for determining whether the number of links used is greater than that provided for by the base license key. Fosdick teaches a measuring the traffic level and for generating data related to the measured traffic level for determining whether the number of links used is greater than that provided for by the license key (see col. 5, lines 16-18 & 25-48). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device in Minear adapt to include a traffic monitoring element for measuring the traffic level of the platform and for generating data related to the measured traffic level for determining whether the number of links used is greater than that provided for by the base license key because the application manager can make a determination

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as to whether there is a license present for a plurality of devices and it would allow for reduced network communications traffic and improved system performance.

Regarding claim 9 Minear and Fosdick teach a device as recited in claim 2 and is rejected given the same reasoning as above.

Regarding claim 10 Minear and Fosdick teach a device as recited in claim 3 and is rejected given the same reasoning as above.

Regarding claim 11 Minear and Fosdick teach a device as recited in claim 4 and is rejected given the same reasoning as above.

Regarding claim 12 Minear and Fosdick teach a device as recited in claim 5 and is rejected given the same reasoning as above.

Regarding claim 13 Minear and Fosdick teach a device as recited in claim 6 and is rejected given the same reasoning as above.

Regarding claim 14 Minear and Fosdick teach a device as recited in claim 7 and is rejected given the same reasoning as above.

Regarding claim 16 Minear teaches a telecommunications platform having a plurality of available communications links of which only a portion of the links are enabled for use with the platform through the activation a first license key (see paragraph [0009]). Minear teaches a licensing framework for activating an upgrade license key to enable additional ones of the plurality of links (see paragraph [0037]). Minear does not specifically teach a traffic monitoring element for measuring, in response to the activation of the upgrade license key, the traffic level of the platform and for generating data related to the measured traffic level for determining when it is determined that the measured traffic level is indicative that the number of links used is

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greater than that provided for by the base license key. Fosdick teaches a traffic monitoring element for measuring the traffic level and for generating data related to the measured traffic level for determining whether the number of links used is greater than that provided for by the license key (see col. 5, lines 16-18 & 25-48). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device in Minear adapt to include a traffic monitoring element for measuring, in response to the activation of the upgrade license key, the traffic level of the platform and for generating data related to the measured traffic level for determining when it is determined that the measured traffic level is indicative that the number of links used is greater than that provided for by the base license key because the application manager can make a determination as to whether there is a license present for a plurality of devices and it would allow for reduced network communications traffic and improved system performance.

Regarding claim 17 Minear teaches a telecommunications platform having a plurality of communications links of which only a portion of the links are enable for use (see paragraph [0009]). Minear teaches a licensing framework for activating an upgrade license key to enable additional ones of the plurality of links (see paragraph [0037]). Minear does not specifically teach a traffic-monitoring element for measuring the traffic level of the platform and for generating data related to the measured traffic level for determining whether the number of links used exceeds the number in the first portion. Fosdick teaches a traffic monitoring element for measuring the traffic level and for generating data related to the measured traffic level for determining whether the number of links used exceeds the number in the first portion (see col. 5, lines 16-18 & 25-48). It would have been obvious to one of ordinary skill in the art at the time

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the invention was made to make the device in Minear adapt to include a traffic monitoring element for measuring the traffic level of the platform and for generating data related to the measured traffic level for determining whether the number of links used exceeds the number in the first portion because the application manager can make a determination as to whether there is a license present for a plurality of devices and it would allow for reduced network communications traffic and improved system performance.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Coley et al. Pub. No: US 2002/0161718 A1 discloses an automated system for management of licensed software.

Coley et al. Pub. No: US 2001/0011253 A1 discloses an automated system for management of licensed software.

Serkowski et al. Pub. No: US 2004/0054909 A1 discloses a licensing duplicated systems.

Gold et al. Pub. No: US 2002/0188704 A1 discloses an upgrade licensed capacity on computer entity.

Gold Pub. No: US 2002/0116589 A1 discloses a managing data storage capacity on a headless computer entity.

Gold US 6,662,284 B2 discloses a computer apparatus, method and memory including license key.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandon J. Miller whose telephone number is 571-272-7869.


The examiner can normally be reached on Mon.-Fri. 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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